



NATIONAL AIR
TRANSPORTATION
ASSOCIATION

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January 15, 1999

Mr. H. Clayton Foushee
Vice President, Regulatory Affairs
Northwest Airlines
901 15th Street, NW
Suite 310
Washington, DC 20005

Dear Clay,

Enclosed, you will find the National Air Transportation Association (NATA) and National Business Aviation Association (NBAA) proposal for the Aviation Rulemaking Advisory Committee Reserve Duty/Rest Working Group.

This concept paper reflects the issues unique to the on-demand air charter industry and explains the operator and pilot relationship where reserve concepts are concerned. While the proposal articulates the manner in which both NATA and NBAA believe reserve-related issues for Part 135 unscheduled operators should be handled, this proposal should not be viewed as suggested regulatory language. Please forward this proposal to the ARAC Executive Committee for submission to the Federal Aviation Administration.

Thank you for all your hard work as we addressed this complex issue.

Sincerely,

A handwritten signature in black ink that reads "Andy Cebula". The signature is fluid and cursive, with the first name "Andy" and last name "Cebula" clearly visible.

Andrew V. Cebula
Vice President

Enclosure

cc: Phil Harter, The Mediation Consortium

**NATIONAL AIR TRANSPORTATION ASSOCIATION
&
NATIONAL BUSINESS AVIATION ASSOCIATION
PROPOSAL FOR RESERVE-RELATED ISSUES IN FAR PART 135
UNSCHEDULED OPERATORS**

THE CONCEPT:

Under FAR Part 135, a flight crewmember's reserve issues consist of:

1. Rest
 - required rest (per current regulations)
2. Opportunity Time
 - can be contacted for a possible duty assignment
3. Duty
 - flying time
 - time required to prepare/conclude a flight
4. Standby
 - time required to wait for duty assignments

The purpose of this proposal is to define the elements of 'Standby' and 'Opportunity Time.' This clarification will provide the Part 135 certificate holder with the versatility to comply with the on-demand nature of unscheduled FAR Part 135 operations by having a pool of crewmembers who are on their own time, and free of all present duties of a certificate holder, unless the crewmember is contacted and the crewmember accepts a duty assignment. At the same time, this clarifies the crewmember's responsibilities to the Part 135 certificate holder and ensures adequate rest and fitness for duty assignments.

	OPPORTUNITY TIME	STANDBY	DUTY
What was the Previous Rest?	10 consecutive hours after a duty assignment	10 consecutive hours after a duty assignment	10 consecutive hours after a duty assignment
Is this Rest?	no	no	no
Is this Duty?	no	yes	yes
Can the Certificate Holder Contact Crewmember?	yes	yes	n/a
Is This Part of 14HR Duty Period?*	no	yes	yes

*SPECIAL PROVISIONS APPLY FOR AIR AMBULANCE FLIGHT OPERATIONS,
SEE PAGE 3

PREVIOUS REST

Following a duty assignment, the crewmember must have received at least 10 consecutive hours of Rest before assignment to 'Opportunity,' 'Standby,' or 'Duty' can occur.

REST OR DUTY?

Opportunity Time: Opportunity time is not to be considered a duty assignment and does not fall under the duty time limitations. However, Opportunity Time is not Rest as defined by the regulations. It is an assignment unique to Part 135 unscheduled operators. When in Opportunity Time, the crewmember has no specific duties to the certificate holder until a duty assignment is accepted. Example of Opportunity Time: The certificate holder has no current duty or Standby assignment for the crewmember; however, should one arise, the certificate holder can contact the crewmember to determine if the crewmember can report for that duty.

Standby: Standby is considered a duty assignment. Upon being assigned to Standby, the 14-hour duty clock begins. This duty period ends when the crewmember is released by the certificate holder or the 14-hour duty period expires, whichever occurs first. Example of a Standby assignment: Crewmember is directed to wait at the airport for contact for a duty assignment and must report to that assignment within a reasonable time period.

Duty: Duty is the time a certificate holder has assigned a crewmember to specific duties and responsibilities. Duty time begins when a crewmember reports and ends when released or the duty period expires. Examples of duty are: flying, pre-flight and post-flight activities, training for the certificate holder.

OBLIGATION TO REPORT

Opportunity Time: During Opportunity Time, the flight crewmember has no specific duties to the certificate holder; however, the certificate holder can contact the flight crewmember for a duty assignment should one arise. There is a responsibility on the crewmember to be fit for a duty assignment unless the flight crewmember is not capable of accepting a duty assignment based on an inability to meet the following, for example:

- Adequately rested for the planned duty assignment,
- No immediate physical impediments that would affect ability to perform the duty assignment, i.e., sprained ankle or broken arm, etc.,
- Not being detrimentally affected by a major life stress, i.e. death in the family, or divorce, etc., that would affect ability to perform the duty assignment, and
- Ability to report for duty within a reasonable amount of time as defined by the certificate holder.

Standby: The duty period begins when Standby is assigned. A crewmember in Standby must be able to complete any duty assignment within the original duty period.

Duty: Reporting is not applicable as the crewmember is presently on duty.

PART OF DUTY PERIOD?

Opportunity Time: Opportunity Time is not considered part of the duty period and, therefore, does not count against the 14-hour duty clock.

Standby: This assignment is part of duty and can only continue for the duration of the normal duty period.

SPECIAL PROVISIONS FOR AIR AMBULANCE OPERATIONS

To accommodate the unique and critical flight operations conducted by Air Ambulance operators, these Part 135 on-demand air charter operators could operate under the following standby provisions without triggering duty time:

- an operator may contact the pilot for a duty assignment
- the pilot may be expected to remain fit for flight (to the extent that this is within the control of the pilot)
- the pilot may be expected to remain within a reasonable response time to the aircraft
- when operating under these provisions a duty period begins when the pilot is contacted and accepts an assignment

Such operations would be subject to the following constraints:

- following completion of a duty assigned during a period of extended reserve, the pilot will be provided at least 10 consecutive hours of rest before next being available for contact by the operator
- assignment to extended standby can consist of up to six consecutive days which shall be followed by a period of at least 24 hours of consecutive rest before next being available for contact by the operator
- Extension Provisions:
The six-day period may be extended by the operator under the following conditions:
 1. Three additional days of extended standby may be assigned with the addition of another 24-hour period of rest.
 2. The maximum amount of extended standby will be 15 days followed by a mandatory 4 days of consecutive rest during which the operator may not contact the pilot.
- The duty period may be extended by Air Ambulance operators as reasonable and necessary to complete a medical transport operation.

Date: February 1, 1999

To: Air Carrier Operations Group

From: Donald E. Hudson, M.D.

Labor Co-Chairman ARAC Reserve Duty Working Group

It was my privilege to again serve as Co-Chairman of another ARAC Working Group, this time dealing with reserve rest issues for professional pilots. It was also rewarding to again work with Dr. Clay Foushee, with whom I shared office space at NASA Ames Research Center in the mid-1980's. In addition, Phil Harter did an admirable job moderating this sometimes contentious gathering.

The diversity of today's aviation environment was reflected in the representatives of the group and it was clear from the outset that there were a great variety of operational schemes in use for scheduling reserve pilots. Most of the meeting time was spent in attempting to reach agreement on a general scheme for Part 121 Scheduled Operators, it being felt that consensus was more probable in that arena. However, I was disappointed and dismayed that, once again, a general consensus in the ARAC between labor and management representatives proved elusive despite good faith efforts by many talented people on both sides of these issues.

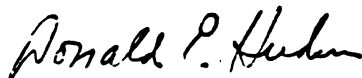
At the first meeting, it was decided not to do a comprehensive review of the scientific literature on fatigue, despite the specific direction to do so in the Federal Register. The rationale at the time being that a detailed review of the scientific literature was unnecessary and, indeed, might be an actual impediment to reaching consensus recommendations. It was felt by both Dr. Foushee and myself that the two sides were not that far apart and a discussion of the operational fatigue research, especially that conducted over the last 15 years, would lead to disagreements over relatively minor points. In retrospect, that was a serious error. As the discussions continued into the fall of 1998, it became clear there were *fundamental* misunderstandings and differences of opinion about the research data and its applicability to flight time duty time regulations for pilots. This led to assertions that the scientific literature can be interpreted in a variety of equally plausible ways and was thus not very useful in providing guidance for drafting practical regulations. That conclusion is not shared by any of the reputable scientists who have conducted the operational research and it is not the view of the labor representatives nor the Battelle Group in their recent recommendations to FAA.

To their credit, the management group did acknowledge the need to provide an opportunity for a pilot to obtain 8 hours of sleep in a 24 hour period but had great difficulty coming to terms with the physiological fact that where that opportunity occurs in the circadian cycle is as vital a parameter as the number of hours available. The research data indicates that humans show significant decrements in performance after prolonged periods of wakefulness. As we all know, commercial aviation can be a very unforgiving environment and this puts a heavy burden on FAA regulators who must try to ensure that safety is not unduly compromised.

The labor submission to ARAC is based on the available scientific data and research in this field – which continues in countries around the world. It is designed to make every effort to ensure that, as much as possible, only crewmembers with opportunity to receive adequate rest are available for duty. It is also designed to prohibit operations that have the real potential to push the human operators to fly when physiologically impaired. The scientific basis for these recommendations is referenced and included in the proposal. I would suggest the management side challenge themselves to similarly measure their proposal by the yardstick of the scientific data as well.

Any new regulations written to address the pressing issue of pilot fatigue *must* be based on our knowledge of the deleterious effects of fatigue on human physiology. The only constant in this discussion is the physiology of the human operator – the pilot. All other considerations, including economics and efficiency are important but not decisive.

It is discouraging to note that it is now 5 years to the day since the last ARAC Fatigue Working Group submitted its proposals to FAA – and we still do not have a final rule on Flight Time Duty Time. New regulations dealing with Reserve Rest are a vital part of any new rulemaking process and I urge FAA to consider the various proposals and the available scientific data – and act swiftly to address this pressing problem.



Donald E. Hudson, M.D.
ARAC RDWG Labor Co-Chairman

Aviation Rulemaking Advisory Committee

Reserve Rest Working Group

Proposal of 77,955 Airline Pilots
January 8, 1999

<u><i>Airline</i></u>	<u><i>Pilots</i></u>	<u><i>Airline</i></u>	<u><i>Pilots</i></u>
Air Wisconsin	240	Mesa	1095
Alaska	1153	Mesaba	804
Allegheny	354	Midway	174
Aloha	192	Midwest Express	262
Aloha Island Air	64	Northwest	6103
America West	1532	Piedmont	368
American	9508	Polar Air Cargo	186
American Eagle	2055	PSA	254
Atlantic Coast	694	Reeve	33
Atlantic Southeast	763	Reno	302
Business Express	372	Ross	19
Carnival	219	Ryan International	257
CCAir	172	Skyway	132
Comair	1000	Southwest	2735
Continental	4769	Spirit	154
Continental Express	1010	Sun Country	213
Delta	9188	Tower Air	206
DHL	395	Trans States	806
Emery Worldwide	451	TWA	2516
Express	329	United	9621
Federal Express	3611	UPS	2100
Hawaiian	285	USAirways	5092
IBT	6000	USAirways Shuttle	167

